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February 11, 2005

Dr. John G. Peters  
President  
Northern Illinois University  
Lowden Hall - Rm. 301  
DeKalb, Illinois 60115-2854

**Certified Mail**  
**Return Receipt Requested**  
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**FINAL PROGRAM REVIEW DETERMINATION LETTER (NON-SITE) EXPEDITED**

Ref: PRCN: 200430523654  
OPE ID Number: 00173700

Dear Dr. Peters:

The Chicago School Participation Team (Team) performed a non-site program review of Northern Illinois University's (NIU) administration of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). See 20 U.S.C. §1092(f) and 34 C.F.R. §668.46. The program review was the result of a complaint received by the Team on April 20, 2004 from Security on Campus, Inc., on behalf of a person at NIU. The scope of the non-site program review was limited to the allegations of the complaint. The complaint raised concerns regarding NIU's compliance with reporting arrests and referrals for campus disciplinary action for liquor law violations as part of its annual security report, as required by 34 C.F.R. §668.46 (c)(1)(viii), and concerns regarding the institution's compliance with the requirement, under 34 C.F.R. §668.46(f), to timely update the information required to be maintained in its daily crime log.

The Team's final program review determination concerning these issues is presented below. The purpose of this final non-site program review determination letter is to close the non-site program review.

## FINDINGS AND FINAL DETERMINATIONS

### FINDING

#### 1. FAILURE TO ACCURATELY REPORT ARRESTS AND REFERRALS FOR CAMPUS DISCIPLINARY ACTION FOR LIQUOR LAW VIOLATIONS

The April 20, 2004 complaint alleged that NIU was not including arrests or referrals for campus disciplinary action for certain types of liquor law violations as part of the crime statistics included in its annual security report. Specifically, the complaint noted that persons cited by local police for allegedly violating city alcohol ordinances are not being reported in NIU's annual crime statistics as arrests for liquor law violations. In addition, the complaint charged that NIU's reported crime statistics do not include as "referrals for campus disciplinary action for liquor law violations," those individuals given a "green card" for alleged alcohol violations. Under this "green card" process, cited individuals must complete an on-line educational course about alcohol abuse and print out a certificate of completion. The individual then submits this completion certificate to the NIU campus police. If an individual does not complete the on-line program, they are referred for campus disciplinary action or are arrested.

In order to comply with the provisions of the Clery Act, an institution must include in its report of annual crime statistics: (1) Arrests for liquor law violations, drug law violations, and illegal weapons possession; and (2) Persons not included in the arrest statistics who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession. See 34 C.F.R. §668.46(c)(1)(viii).

Failure to collect and distribute the required campus crime statistics and campus security policies to current and prospective students and employees constitutes an inability by the institution to properly administer the Title IV, HEA programs.

### Final Determination

NIU's response to the April 20, 2004 complaint states that NIU includes in its annual crime statistics those individuals who are (1) arrested and (2) those who are referred for campus disciplinary action for alleged violations of state law related to liquor control. NIU asserts that in order to be considered a "referral for campus disciplinary action," a record of such action must be kept and such action may result in the imposition of a sanction. NIU argues that the "green card" educational module at issue in the complaint is not typically part of any recorded sanction.

The Team concurs with NIU's assertion that individuals subject to the "green card" educational module should not be considered a referral for disciplinary action. Thus, individuals who are only subject to this educational module do not have to be included as "persons referred for campus disciplinary action" under the reporting requirements of 34 C.F.R. §668.46(c)(1)(viii)(B).

Although NIU does not have to report "green card" incidents in its annual crime statistics, the institution is incorrect in its assertion that it is only required to report arrests for alleged violations of state law related to liquor control. The Uniform Crime Reporting (UCR) definitions



included in Appendix A to Subpart D of 34 C.F.R. Part 668 define liquor law violations as the "violation of laws or ordinances" prohibiting certain actions relating to alcohol. Thus, under the Clery Act, institutions must report arrests for the violations of statutes issued by local governments as well as those issued by states. Furthermore, under UCR reporting procedures, "arrest" is defined as "a person processed by arrest, citation, or summons." Individuals cited for allegedly violating a municipal ordinance would be required to pay a penalty if found guilty of violating the ordinance. Thus, individuals cited by police for liquor law violations on campus, in or on a non-campus building or property, or on public property must be included in the arrest statistics of NIU's annual security report.

In order to comply with the reporting requirements of the Clery Act, NIU must include as "arrests for liquor law violations" in its crime statistics, those individuals cited for alleged violations of city ordinances concerning alcohol. In its next regularly scheduled non-federal audit, NIU's auditor must comment on the actions taken by the institution to ensure that it is correctly reporting statistics of arrests for liquor law violations as part of its annual security report.

### **Finding**

## **2. FAILURE TO PROPERLY MAINTAIN DAILY CRIME LOG**

The April 20, 2004 complaint alleged that Northern Illinois University was not consistently making entries into its daily crime log within two business days of the report of information to the campus police.

Under the requirements of 34 C.F.R. §668.46(f)(2), an institution is required to make an entry or an addition to an entry in its daily crime log within two business days of a report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

Failure to properly maintain the campus daily crime log constitutes an inability by the institution to properly administer the Title IV, HEA programs.

### **Final Determination**

NIU's response to April 20, 2004 complaint states that the campus police maintained an electronic version of the daily crime log on NIU's Internet website. According to NIU, the institution had difficulty maintaining an accurate and timely electronic daily crime log as a result of problems arising from technical software issues. NIU is in the process of correcting these technical issues. In the meantime, NIU maintains and timely updates a hard copy daily crime log. Individuals wishing to access the electronic daily crime log on the Internet are instructed that they may view NIU's daily crime log information at the offices of NIU's Department of Public Safety.

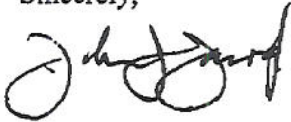
NIU must update its daily crime log in accordance with federal regulatory requirements, regardless of whether the crime log is in hard copy or electronic format. In its next regularly scheduled non-federal audit, NIU's auditor must comment on the actions taken by NIU to ensure

**Northern Illinois University**  
**PRCN: 200430523654**

that it is updating the daily crime log with the appropriate information within the required timeframes.

Your continued cooperation throughout the non-site program review process is appreciated. If you have any questions about this final program review determination letter, please contact Mr. Herschel D. Wallace III at (312) 886-8739.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Jaros, Jr.", written in a cursive style.

John J. Jaros, Jr.  
Chicago School Participation Team Leader

Cc: Kenneth L. Davidson  
Associate Vice President and General Counsel